

**Summary of the Plenary Group Meeting
Oroville Facilities Relicensing (FERC Project No. 2100)
January 28, 2002**

The Department of Water Resources (DWR) hosted the Plenary Group meeting on January 28, 2002 in Oroville.

A summary of the discussions, decisions made, and action items is provided below. This summary is not intended to be a transcript, analysis of the meeting, or to indicate agreement or disagreement with any of the items summarized, except where expressly stated. The intent is to present an informational summary for interested parties who could not attend the meeting. The following documents are provided:

- Attachment 1 Meeting Agenda
- Attachment 2 Meeting Attendees
- Attachment 3 Flip Chart Notes
- Attachment 4 Where We Are in the Process Presentation
- Attachment 5 Focus of Study Plan Review
- Attachment 6 State Water Contractors letter
- Attachment 7 Interim Recreation Projects Decision

Introduction

Attendees were welcomed to the Plenary Group meeting and objectives were discussed. Rick Ramirez with DWR introduced Dr. Roy McDonald as a new addition to the Harza/EDAW consulting team and explained that Wayne Dyok will now be focusing primarily on the environmental and engineering and operations issues. Roger Masuda representing Butte County asked for a new organization chart for the Oroville Relicensing Team; this was added as an action item. The meeting agenda and list of meeting attendees with their affiliations are appended to this summary as Attachments 1 and 2, respectively. Meeting flip charts are included as Attachment 3.

Process Updates

Where We Are in the Process

Len Marino of DWR gave a presentation discussing where we are in the FERC Relicensing Process. His presentation is included as Attachment 4.

Scoping Comment Responses

Len reported that DWR received a total of 73 comments during the 60-day SD 1 comment period, which ended November 29, 2001. The comments were distributed to the Resource Area Managers (RAMs) for each Work Group to determine if the comments were addressed in existing study plans or if any study plans would require adjustments. The majority of the comments have been addressed by existing study plans. Len closed by reminding participants that the final SD1 will be released in Late March or Early April and will include responses to all comments received.

Cumulative Approach/ESA

Steve Ford of DWR reported that during development of study plans the Environmental Work Group discussed how to develop a cumulative approach that would address their needs and also work for all other resource areas. Ongoing discussions have been taking place with the federal and state resource agencies and a Cumulative Approach Task Force was initiated by the Environmental Work Group to articulate an approach that would then be shared with the other work groups. They are also addressing Endangered Species Act issues and scope. While the discussions are quite technical, Steve invited any interested participants to attend the discussions if they are interested.

Critical Path Study Plan "Heartburn" Review

The facilitator distributed a handout to the group outlining the review process for this meeting. The handout is provided as Attachment 5. She discussed the ground rules for going through the critical

path study plans, the desired outcomes of this process, and reminded the participants that the study plans we are reviewing were included in the Study Plan binder distributed at the December 11, 2001 Plenary Group meeting. Any Critical Path Study Plans that have no identified heartburn issues will be placed on a consent calendar for approval at the February Plenary Group meeting. Heartburn issues will be divided into technical and policy issues. She explained that technical type heartburn issues identified at today's meeting will be directed to the appropriate work group for resolution, while the policy type heartburn issues will be addressed by the Plenary Group. Any study plans revised by the work groups as a result of heartburn issues identified during this meeting will then be distributed to the Plenary Group for review prior to the February Plenary Group meeting. At that meeting, revisions will be reviewed and the study plans will be considered for addition to the consent calendar and approval at that time.

The following nine Critical Path Study Plans had no identified heartburn issues and were placed on the February Plenary Group meeting consent calendar:

- SP-L1 Land Use Study
- SP-L4 Aesthetic Impact Assessment
- SP-R7 Reservoir Boating Survey
- SP-C1 Cultural Resources Inventory
- SP-E7 Oroville Reservoir Cold Water Pool Evaluation
- SP-T2 Project Effects on Special Status Species
- SP-T4 Biodiversity, Vegetation Communities and Wildlife Habitat Mapping
- SP-G1 Effects of Project Operations on Geomorphic Processes Upstream of Oroville Dam
- SP-G2 Effects of Project Operations on Geomorphic Processes Downstream of Oroville Dam

The following Critical Path Study Plans heartburn issues were identified as follows:

SP-R9 Existing Recreation Use Study

A participant asked that the Recreation and Socioeconomics Work Group re-address the trail data collection methodology. The Plenary Group referred this study plan back to the Recreation and Socioeconomics Work Group for resolution.

SP-E1 Model Development

Roger Masuda representing Butte County expressed heartburn over the lack of a peer review for all modeling study plans. He asked that an independent model review panel be identified to review all models associated with the study plans from all work groups. Patrick Porgans representing JEM Farms, suggested we might consider using the existing Bay/Delta process modeling forum while Harry Williamson representing the National Parks Service asked if there wasn't adequate modeling expertise within the collaborative participants to perform a review of the models as needed. After some discussion, the Plenary Group agreed to establish a Modeling Protocol Task Force with the goal of developing a general protocol applicable to all models under consideration. The Modeling Protocol Task Force would be charged with developing a review methodology to ensure transparency and consistency in the use of each model and instill confidence for the models within the collaborative participants. Participants on the Modeling Protocol Task Force are Ed Craddock, Pete Dangermond, Craig Jones, Patrick Porgans, Curtis Creel, Bill Smith, a representative of the State Water Project office of Planning, Richard Roos-Collins, and a representative from the Environmental Work Group to be identified at their next Work Group meeting. Rick Ramirez asked that Curtis Creel be the Task Force leader and coordinate a meeting time convenient to the others. Nan Nalder representing the State Water Contractors suggested that the Modeling Protocol Task Force report their progress to the Plenary Group at their February meeting.

Richard Roos-Collins representing American Rivers shared what he characterized as an anticipatory heartburn issue. While he described the study plans as excellent drafts, he reminded participants that the schedule for anticipated results and the need for those results when negotiating agreements must be considered in the overall schedule. He suggested that the study

plan authors work backwards from the date when results would be needed for negotiations and make sure the study plans and any iterative model runs are designed to achieve that goal. After some discussion, the participants agreed that study plan authors should target April 2004 as the latest point at which results should be available.

SP-E1.1 Statewide Operations Model Development

Richard Roos-Collins asked if the assumptions contained within the Attachment A CALSIM II schematic have any flexibility or allow for discretion in licensed operations of the project to evaluate potential alternative operating scenarios. Curtis Creel, RAM for DWR Operations indicated there was some flexibility but the Engineering and Operations Work Group should consider this heartburn issue at their next meeting and this may become a policy issue in need of Plenary Group resolution since the statewide models have been operating under set assumptions when used by other ongoing evaluations and processes within the state. Wayne Dyok with the consulting team suggested the Modeling Protocol Task Force should also consider this question.

SP-E1.2 Local Operations Model Development

Same heartburn issues as those identified for SP-E1 and SP-E1.1 above.

SP-E1.3 Oroville Reservoir Temperature Model Development

Ron Davis offered his desire to see data collected from deep within the lake instead of just the surface and requested consideration of parameters to evaluate turnover of strata. He also requested the study include a monitoring station in Glen Pond and Glen Creek. Steve Ford, RAM for the Environmental Work Group indicated that the monitoring stations would be discussed in the Environmental Work Group meeting the next day. Participants expressed the same heartburn issues with this study plan as identified for SP-E1 and SP-E1.1 above.

SP-E1.4 Thermalito Complex Temperature Model Development

Same heartburn issues as those identified for SP-E1 and SP-E1.1 above.

SP-E1.5 Feather River Temperature Model Development

Mike Mainz with CDFG asked that the study plan be revised for consistency with regard to study area and scope. Nan Nalder suggested a glossary that would include standard terms and definitions would be helpful for the participants. Craig Fleming with USFWS asked that SP-E1.5 be functionally integrated with SP-F16 and advance the development of a conceptual model descriptive of all environmental study plans. One participant asked if SP-E1.5 included a watershed-based component. Curtis Creel responded that question was raised in the Engineering and Operations Work Group as a potential model scope but is not included in this set.

SP-E1.6 Feather River Flow-Stage Model Development

Same heartburn issues as those identified for SP-E1 and SP-E1.1 above plus request for consistency in study area language.

SP-E6 Downstream Extent of Reasonable Control of Feather River Temperature by Oroville

Same heartburn issues as those identified for SP-E1 and SP-E1.1 above plus request for consistency in study area language.

SP-W1 Project Effects on Water Quality Designated Beneficial Uses for Surface Water

Steve Ford explained that the Environmental Work Group is meeting tomorrow to discuss most of the critical path study plans and will be providing some revised Critical Path Study Plans to the Plenary Group before their February meeting. Both Sharon Stohrer and Eric Theiss commented that they have suggested some extensive changes to this Study Plan and hope that these will be incorporated into the plan when they are discussed at tomorrow's meeting.

SP-W2 Contaminant Accumulation and Aquatic Food Chain

Sharon Stohrer explained that there would be significant changes recommended by other agencies at an upcoming Environmental Task Force meeting and a revised version of this study plan would be distributed to the Plenary Group before the February meeting.

SP-W6 Project Effects on Temperature Regime

Mike Meinz requested consistency of language.

SP-T1 Effects of Project Features and Operation on Wildlife and Wildlife Habitat.

This study plan was removed from the Critical Path list after the Environmental Work Group agreed it could be a lower priority than the Critical Path study plans. Steve Ford indicated that the Environmental Task Force would be discussing this in early February and anticipates providing a revised version to the Plenary Group for discussion at the February Plenary Group meeting.

SP-T3/5 Riparian Resources, Wetlands, and associated floodplains

This study plan was removed from the Critical Path list after the Environmental Work Group agreed it could be a lower priority than the Critical Path study plans. Steve Ford indicated that the Environmental Task Force would be discussing this in early February and anticipates providing a revised version to the Plenary Group for discussion at the February Plenary Group meeting.

A participant asked the status of the fisheries Critical Path Study Plans. Steve Ford explained briefly the status of each of the fisheries study plans and the anticipated completion date. He anticipates at least two of the most important plans will be ready for Environmental Work Group review at their meeting in early March. Rick Ramirez explained that the Environmental study plans are in some ways the most difficult, however they have also been through several revisions during numerous focused meetings with state and federal resource agency staff so the end results are generally well crafted and should produce few if any heartburn issues for the Plenary Group.

Doug Rischbieter, RAM for the Recreation and Socioeconomics Work Group added that SP-R13 was undergoing some revisions with regard to sampling protocol and would be ready for Plenary Group heartburn review at the February Plenary Group meeting.

FERC – Jurisdictional vs. Non-Jurisdictional (inform)

Tim Welch from FERC introduced Elizabeth Malloy of the Legal Office with FERC to lead a discussion about jurisdictional vs. non-jurisdictional issues. Michael Pierce, representing Butte County asked about the potential for FERC to require DWR to share the revenue stream from power and water supply with local entities. Elizabeth responded that FERC is licensing the power component of the project while the water contracts are outside of FERC jurisdiction but probably fall under state law. With regard to the power issue, FERC is interested in licensees providing balanced benefits for the public as a requirement of utilizing a public resource for power generation. Typically this takes the form of enhancements at the project site such as boat docks, launching facilities and improved fisheries. Occasionally there are offsite mitigation efforts undertaken however FERC prefers that any protection, mitigation and enhancement measures occur within the project boundaries if possible.

D.C. Jones asked if others, such as the local people could somehow share the power or benefit from the sale of the power. Elizabeth responded that FERC doesn't really look at giving people a piece of the pie but instead looks at the water resources and ways to make that available for multiple uses. For example, developing recreation facilities to benefit the public on the reservoir contained to generate hydroelectricity by the licensee. Mike Meinz asked for clarification of the difference in jurisdictional boundaries between a FERC traditional relicensing process and an alternative licensing process (ALP). Elizabeth agreed that within a collaborative ALP, the potential issues could be discussed more broadly than what one would find discussed during the traditional process because the licensee can enter into settlement agreements that encompass non-jurisdictional issues. The new license however will only deal with those issues FERC considers

jurisdictional, regardless of what the licensee agrees to in the settlement agreement. FERC encourages settlement agreements because they represent agreement among those parties closest to the projects but FERC does not include all agreements in the license conditions: only that which is within their jurisdiction to address.

One participant asked for clarification of the project boundaries as approached by FERC. Tim Welch responded that FERC essentially draws a line around the project facilities necessary to operate the project and identifies that as the 'project boundary'. However, in terms of project impacts, clearly some effects of the project operations extend outside of the project boundary and the Work Groups appear to be on the right track in addressing the extent of those effects.

Richard Roos-Collins asked if the resulting environmental document would be a joint NEPA/CEQA document to address jurisdictional issues on both a FERC and State level in which case the jurisdictional question is not just what would be included in the license but would also include what DWR as a State agency must comply with. Elizabeth responded that she believes the NEPA document would have a narrower scope than the CEQA document. Rick Ramirez added that DWR envisions possibly two documents developed under one process with the preliminary draft EA representing the basis for both documents. Later, Ward Tabor clarified that DWR would most likely produce one document to address both NEPA and CEQA processes.

One participant asked how FERC would address either decommissioning or dam removal in this case. Elizabeth replied that since this dam is a key to the State Water Project, dam removal seems to be extremely remote however it is possible, and decommissioning or removal of the power generating capabilities likewise is possible. Harry Williamson, National Parks Service pointed out one of the unique circumstances of this project is the absence of federal land around the project. What happens to their recommendations if they wind up in a settlement agreement as opposed to what typically happens with 4e conditions that are incorporated into a new license? Elizabeth responded that FERC may choose to incorporate recommendations from the settlement agreement into the license conditions but would need to look at this very closely to determine enforceability.

One participant asked if FERC could force a licensee to increase power production as part of the license conditions. Elizabeth responded that FERC would look at license applications, including competing applications for use of the same resource to try and determine the best proposal but would not force a licensee to increase power production. She also noted that anyone could file for a preliminary permit to evaluate development of hydroelectric project facilities and FERC would consider granting a license for anyone that felt so inclined to go into the power production business. Likewise, FERC doesn't get involved in power or water contracts and doesn't tell licensees how to pay for projects.

Elizabeth reminded the Plenary participants that they need to keep in focus the deadlines that are not movable. DWR must file a new application in 2005 in anticipation of the current expiration date in 2007. Participants discussed the situation where some studies may not be complete by 2005 and Elizabeth explained that some study results could continue to be submitted after the 2005 deadline but the application and exhibits need to be complete.

Roger Masuda asked what kinds of services are available to work out difficult issues. Tim Welch responded that one avenue is through Alternative Dispute Resolution Services where help can come directly or through referral. Richard Roos-Collins asked who would be the lead agency for CEQA. Ward Tabor responded that DWR would be the best candidate in this case.

State Water Contractors Letter

Craig Jones representing the State Water Contractors (SWC) distributed a letter from SWC to DWR regarding the preliminary draft study plan package review. The letter commended DWR and the participants for their combined efforts to date in developing the study plans and explains that the SWC have specific comments that will be directed to Work Group discussions and overarching concerns for the Plenary Group consideration that are contained in this letter. The three

overarching concerns include 1) necessary additional studies; 2) geographic boundaries – phased ‘reasonable’; and 3) need for terms and definitions. The SWC letter is included in this summary as Attachment 6.

Interim Recreation Projects

Interim Settlement Agreement Language/Riverbend Park Task Force Update

Scott Lawrence representing Feather River Recreation and Parks District, updated the participants on recent Task Force effort to craft Interim Settlement Agreement language. He indicated that while the document is close to being finalized, the Task Force felt that it was time for the legal counsel of the various entities expected to sign the agreement to get involved in fine-tuning the language. After the Task Force completes the document, it will need to go back to respective boards and decision-makers for approval, after which it would be presented to the Plenary Group. The Task Force has three additional meetings scheduled in February and anticipates having a final document by the end of the month.

Cathy Hodges, local resident, questioned if an EIR was going to be completed for the Riverbend Park Project. Scott Lawrence responded that whatever environmental documentation was determined to be appropriate to comply with CEQA regulations would be completed.

Interim Recreation Projects Decision

Tom Glover, Oroville Field Division Chief with DWR gave a presentation on DWR's decision regarding the submitted list of Interim Recreation Projects developed through the Recreation and Socioeconomics Work Group and Plenary Group. His presentation is included in this summary as Attachment 7. He explained the process used to make the final decision and explained the resulting four categories of projects. Michael Pierce representing Butte County asked if DWR would be working within their existing operating budget. Tom replied that the budget was established after the projects were determined not in reverse. Michael asked if DWR would be spending any more money on these than would have been spent if these interim recreation projects did not exist. Tom said, yes because DWR was looking at a period to 2007 when no further commitments under the existing FERC license would require expenditure beyond expected operations and maintenance costs. He added that DWR is looking to complete as many of the projects within the four categories as they can within the time between now and the new license and with the resources available.

Action Items – December 11, 2001 Meeting Action Items (inform)

A summary of the December 11, 2001 Plenary Group meeting is posted on the relicensing web site. The Facilitator reviewed the status of action items from that meeting as follows:

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| Action Item #P71:
Status: | Provide Microsoft Project schedule file displaying study plan tasks.
The schedule is an iterative process, dependent on study plans that are not completed. Copies of the preliminary draft are available for those that really need to see them right now but participants were encouraged to wait until the February meeting when the schedule would be more fully developed. |
| Action Item #P72:
Status: | Request that FERC discuss the difference between jurisdictional and non-jurisdictional issues with the Plenary Group at their next meeting.
On this meeting's agenda. |
| Action Item #P73:
Status: | Continue efforts to draft global scope language in the Environmental Work Group.
The Environmental Work Group is continuing this effort at their meeting tomorrow. |

- Action Item #P74:** Attach today's PowerPoint presentation to the meeting summary posted on the web site and available to participants.
Status: This was posted as an attachment to the December 11 Plenary Group meeting summary.
- Action Item #P75:** Create a systematic approach to finish and approve critical path studies.
Status: This approach was part of the presentation by DWR at today's meeting.
- Action Item #P76:** Consider moving the February Plenary meeting to Monday February 25 if FERC is agreeable.
Status: This was considered but FERC indicated their representative was not available.
- Action Item #P77:** Consider holding the January Plenary Group meeting from 1:00 to 9:00 and the February Plenary Group meeting from 10:00 to 6:00.
Status: Plenary Group agreed to these suggestions.

Next Steps

Proposed 2002 Plenary Group and Work Group Meeting Schedule and Locations

A schedule including Work Group and Plenary Group meeting dates for 2002 was distributed to the participants. The facilitator explained that the Work Group dates are pending approval by each Work Group scheduled to meet this week with the exception of the Engineering and Operations Work Group which met last week and approved the schedule except for the November meeting dates that fall during the week of Thanksgiving. They suggested the entire block of meetings be re-scheduled for the week before to avoid the holiday.

Richard Roos-Collins asked how this schedule was different from the schedule distributed at the December 11th Plenary Group meeting. The Facilitator responded that the only changes are the February dates. Sharon Stohrer again raised the question of moving the February Plenary Group meeting to February 25th so it would not conflict with another relicensing process several agency participants are committed to. The Facilitator reminded the group that the date had been changed to accommodate FERC participation but Tim Welch with FERC responded that the date should be set to accommodate the majority of the group and FERC would figure out a way to participate so if February 25th is best for the Plenary Group participants, that is when the meeting should be. The participants agreed and the February Plenary Group meeting date was changed to the 25th from 10:00am to 6:00pm.

Rick Ramirez asked if, given that March is the date scheduled for approving the Study Plan package, we should consider adding an additional meeting date in March in case we need it to finish the approval process. The participants agreed that a date should be held as a placeholder in case the Plenary Group needs the additional time. The added meeting will be March 29th from 8:00am to noon. The March 28th Plenary Group meeting will be held from 1:00pm to 9:00pm. The Plenary Group participants agreed to the other meeting dates on the 2002 calendar.

Rick Ramirez informed the Plenary Group that DWR had filed with FERC their Notice of Intent, a document indicating a licensee's intention to relicense their hydropower project that must be filed with FERC five years prior to existing license expiration.

Next Meeting

The Plenary Group agreed to meet on:

Date: February 25, 2002

Time: 10:00am – 6:00pm

Location: Kelly Ridge Golf Course Meeting Room, 5131 Royal Oaks Drive, Oroville California

Action Items

The following list of action items identified by the Plenary Group includes a description of the action, the participant responsible for the action and item status.

Action Item #P78: Provide new Harza/EDAW organization chart.
Responsible: DWR
Due Date: February 25, 2002

Action Item #P79: Plenary deliberation of Study Plan Schedule.
Responsible: DWR/consulting team to develop Gantt chart to identify timing necessary
Due Date: Draft by February 25, 2002, final by end of March

Action Item #P80: Create a glossary of terms.
Responsible: DWR/consulting team
Due Date: February 25, 2002

Action Item #P81: Develop a list of models under consideration for use during the project.
Responsible: DWR
Due Date: February 25, 2002